

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNIVERSITY OF PITTSBURGH

Plaintiff,

v.

VARIAN MEDICAL SYSTEMS, INC.,

Defendant.

Case 2:07-cv-00491-AJS

Judge Arthur J. Schwab

**Filed Electronically**

**DECLARATION OF SHANNON M. CLOUGHERTY REGARDING THE FILING OF  
VARIAN'S MOTION FOR LEAVE TO FILE REPLY MEMORANDUM IN  
SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT FOR LACK OF  
STANDING, OR IN THE ALTERNATIVE, MOTION FOR A PRELIMINARY  
HEARING ON THE ISSUE OF STANDING**

Varian filed its Motion for Leave to File Reply Memorandum in Support of its Motion for Summary Judgment on the Issue of Standing, or, in the Alternative, Motion for Preliminary Hearing on the Issue of Standing, under seal on December 13, 2007. The proposed Order of Court was inadvertently excluded from the Motion. To determine how to remedy the situation, the undersigned initiated a telephone conversation with the court's filing clerk at 8:45 a.m. this morning. At the clerk's request, the undersigned had a copy of the proposed Order of Court hand-delivered to the clerk at approximately 9:30 a.m. this morning. Although the proposed Order of Court was hand-delivered at that time, the Court apparently did not see it prior to the Court's issuance of the order denying without prejudice due to failure to attach a proposed order. Therefore, Varian has re-filed its Motion for Leave to File Reply Memorandum in Support of its Motion for Summary

Judgment on the Issue of Standing, or, in the Alternative, Motion for Preliminary Hearing  
on the Issue of Standing (under seal) on this date.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the **DECLARATION OF SHANNON M. CLOUGHERTY REGARDING THE FILING OF VARIAN'S MOTION FOR LEAVE TO FILE REPLY MEMORANDUM IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT FOR LACK OF STANDING, OR IN THE ALTERNATIVE, MOTION FOR A PRELIMINARY HEARING ON THE ISSUE OF STANDING**

was served upon all parties either individually or through counsel via:

_____	Hand-Delivery
_____	Facsimile
_____	First Class, US Mail, Postage Prepaid
_____	Certified Mail-Return Receipt Requested
<u>      X      </u>	ECF Electronic Service
_____	Overnight Delivery

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Dated: December 14, 2007

/s/ Shannon M. Clougherty  
Shannon M. Clougherty